

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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STANDARDS BOARD****BOARD STAFF'S REVIEW OF
PETITION FILE NO. 536**

Petitioners: Buttonwillow Land and Cattle Company and
WM. Bolthouse Farms, Inc.

Submitted by: George Hauptman

Title: Senior Engineer-Standards

Date: 10/5/13

(B) Permit no riders on agricultural equipment other than persons required for instruction or assistance in machine operation” (emphasis added)

There has been some uncertainty in the agricultural industry in the past about the Division’s position with respect to the provisions in Section 3441(a)(2)(B) regarding the use of tractors equipped with attached PTPs. In January of 2011, former Division Chief, Len Welsh responded to an inquiry from Grimmway Farms about the use of PTPs associated with field crop irrigation operations. Mr. Welsh made an on-site visit to Grimmway Farms and observed the operation of a PTP attached to the back of a tractor by a three point hitch assembly¹.

Mr. Welsh concluded that the use of the PTP was compliant with Section 3441, because it was specifically designed to transport employees as opposed to performing agricultural operations. However, he also advised the employer that the safe use of such platforms may be subject to other Title 8 standards and factors should be considered, such as the kinds of operations in which they are used, including the condition of the landscape underneath and around the operation, as well as the equipment design and structural integrity. He expressed that these issues are in need of a complete review by the Division.

On September 20, 2011, Mr. Welsh’s successor, former Division Chief Ellen Widess, informed Grimmway Farms of the Division’s need to further investigate and review a number of concerns related to the use of tractors and the use of PTPs attached to tractors that are used to transport workers. Grimmway was advised the letter from Mr. Welsh was being retracted and that, in order to achieve compliance with applicable standards, Grimmway should seek a permanent variance from the Standards Board. She also offered to consider a request for a temporary variance related to the use of PTPs.

Grimmway applied for both a permanent variance from the Board and for a temporary experimental variance from the Division. On May 4, 2012, the Division issued Grimmway Farms a one-year temporary variance from Section 3441(a)(2)(B). The Division granted an extension of the temporary variance, and it is still in effect until November, 2013. The temporary experimental variance provides the employer the opportunity to demonstrate that its use of the PTPs is a safe and effective practice. With respect to the application for a permanent variance from the Board, the parties met on May 20, 2013. Subsequent to this meeting, the parties agreed to allow more time (until at least September 1, 2013) before proceeding with a formal hearing. The additional time would allow an expert in agricultural operations and equipment to further evaluate and make recommendations related to the use of PTPs. The expert’s evaluation related to the Grimmway Farms PTP operations was received by the Board on September 26, 2013. This evaluation concludes with the following statement:

¹ A three point hitch attaches implements and equipment to a tractor so that the orientation of the implement is fixed with respect to the tractor and the arm position of the hitch. The tractor carries some or all of the weight of the implement.

and sprains. The Petitioner asserts that even one walk across a hot field is an arduous task and to ride in a transport platform these long distances affords a break from the heat and physical exertion of this work. Many such trips are required of employees during hundred degree weather creating an extreme hazard for employees that work very hard for long hours. The Petitioner further states prohibiting the use of PTPs would require an extra vehicle in the field or require workers to continuously move their personal vehicles to the field areas where they need to be.

The Petitioner stated that utilizing one tractor to transport materials and personnel to the field, as well as to perform the installation and removal of irrigation pipe eliminates the need for multiple vehicles on farm roads. This practice represents a significant reduction in dust, fuel usage and multiple safety issues associated with increased traffic on farm roads.

Until a workable alternative is provided, such as a standard to permit the use of PTPs, the Petitioner believes the interpretation and enforcement of the standard is unreasonable and an unnecessary burden upon both employers and employees within the agricultural industry.

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH EVALUATION

The Division submitted an evaluation dated August 30, 2013 in which it stated the Petitioner's request has merit and recommended the request be referred to an advisory committee for consideration.

NATIONAL CONSENSUS STANDARDS

Board staff is not aware of national consensus standards that address the design or use criteria for personnel transport platforms used in combination with agricultural tractors for the transportation of farm workers in crop fields and/or transportation on in-farm private roads.

FEDERAL OSHA AND CALIFORNIA STANDARDS

Federal OSHA agricultural standards are provided in 29 CFR 1928 "Occupational Safety and Health Standards for Agriculture." Provisions relating to riding on tractors state the following:

1928.57(a)(5)

"Farm field equipment" means tractors or implements, including self-propelled implements, or any combination thereof used in agricultural operations."

1928.57(a)(6)(ii)

"Permit no riders on farm field equipment other than persons required for instruction or assistance in machine operation."

These federal provisions are similar to California's Title 8 standards in Section 3441(a)(2)(b) which prohibit riders on tractors. With respect to roll-over protective structures and the requirements for seatbelts on tractors, the federal provisions in 29 CFR 1928.51, in relevant part, state the following:

seatbelts and others are not. Board staff believes that some PTP designs may have hazards associated with their design or intended use that need to be fully explored before standards are considered that would encompass all types of transport units in use.

However, the use of agricultural tractors and PTPs subject to the petition would also include those that are attached to the tractors and used to transport workers in field crop operations involving the installation and removing of irrigation piping at various California farms. Attached photo No. 1 from WM. Bolthouse Farms Inc., shows a typical tractor with attached PTP and the pipe trailer. Photo No. 2, depicts the type of employee transport platform that is used by Grimmway Farms under its temporary variance from the Division. Photo No. 3 shows a closer view of the Grimmway Farms tractor with attached PTP.

The pipe trailer that is attached behind the PTP is used to load and unload irrigation pipes. This type of employee transport platform is attached to the rear end of the tractor by the tractor's three-point hitch apparatus and the transport platform does not have wheels or an axle of its own. As stated above, there are a number of different types of PTP designs used in agricultural operations. For example, some employee transport platforms are not attached to the tractor's 3-point hitch, but rather, are attached to a single fixed rear hitch and pin system on the tractor, and the transport platform has an axle and wheels of its own. Other platforms are designed with the employee entrance opening in the center of the carrier rather than the sides of the transport platform. In some cases, riding platforms have been welded to the sides of tractors according to the Division, although it is not clear if this type of platform is used in row crop irrigation operations.

There are a number of hazards associated with the use of agricultural tractors and towed implements or equipment. Section 3441(a)(2)(b) prohibits riding on tractors or agricultural equipment (other than persons required for instruction or assistance) in order to prevent riders from being exposed to the hazards of certain tractor operations. Tractor overturns/rollovers are a leading cause of serious and fatal accidents in agricultural operations according to studies by agricultural experts, universities and organizations such as the National Institute of Occupational Safety and Health.

Typical causes of rollover accidents include, but are not limited to, collisions, driving too close to an incline or embankment, driving too fast when negotiating a curve, traveling on slopes, uneven braking traveling at high speeds and losing control of the tractor due to excessive loads on the drawbar. As long as the tractor is operated in a manner whereby the tractor's center of gravity is within the base of stability, the tractor is not subject to rollover. ROPS and seatbelts protect the operator of tractors from being crushed or injured but do not afford protection for riders who fall or are thrown from such equipment.

The Division indicates that no PTPs have been encountered that are equipped with ROPS. The feasibility of installing ROPS on these units is questionable, in that tractor manufacturers are not making PTPs or ROPS for them, and there are no consensus standards setting forth criteria for ROPS associated with the use of PTPs.

- The conditions necessary for safe use and/or identification of the hazards of PTPs operated in field crops rows versus private farm roads.
- The inspection and maintenance of equipment used in irrigation operations that involve PTPs.
- Training and record keeping.

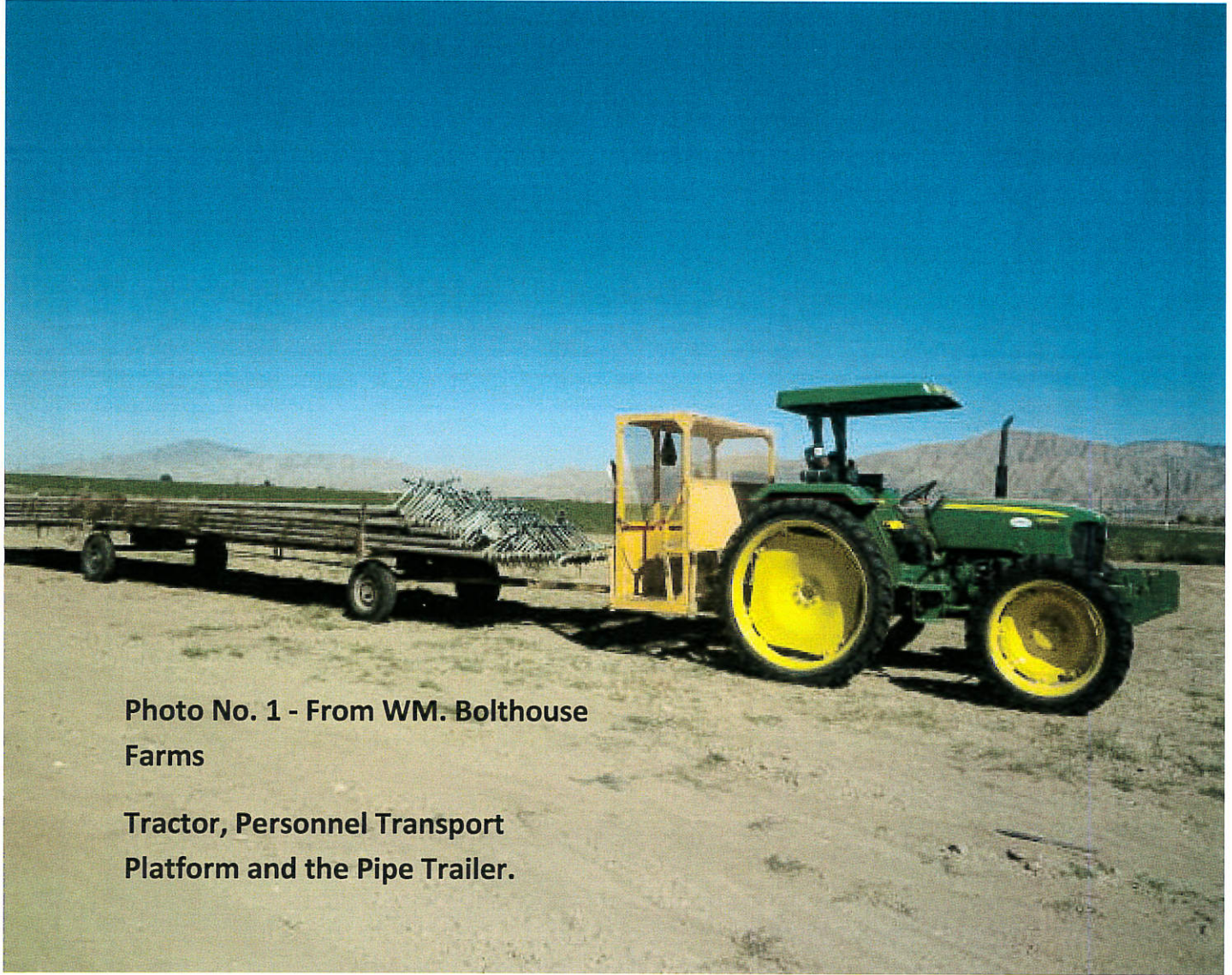
RECOMMENDATIONS

Tractor-mounted PTPs have a long history of use among employers that produce row crops such as, carrots, lettuce, beets, radishes, celery, onions, barely, and potatoes etc. Growers state they have used these units safely for over 25 years and assert that these units reduce, strains and sprains, physical exertion, exposure to heat stress, provide shade and rest periods during transport and that their use reduces the number of vehicles traveling on farms.

The Division has also worked with one large employer to develop a temporary variance that allows them to use PTPs, subject to a number of conditions, in furrowed fields for row crops and on private roads. Board staff believes there is merit to considering the Petitioner's request for standards addressing the use of PTPs. The advantages and potential hazards associated with their use in both row crop furrowed fields and for travel on private in-farm roads should be considered by an advisory committee.

Therefore, staff recommends that an advisory committee of stakeholders should be convened by the Board staff to consider the Petitioner's request. The Petitioners and or their representatives should be invited to participate in the advisory committee.

Attachments: Photo nos. 1 – 3.



**Photo No. 1 - From WM. Bolthouse
Farms**

**Tractor, Personnel Transport
Platform and the Pipe Trailer.**

Photo No. 2 – Grimmway Farms

Tractor, and attached Personnel

Transport Platform and Pipe Trailer



Photo No. 3 – Grimmway Farms

Tractor and Personnel Transport Platform

